

***Amended**
HLD-31 (December 2007)

January 18, 2008
December 21, 2007

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 07-4286

ANTHONY GILMORE,
Appellant

vs.

SUPERINTENDENT BROOKS
(W.D. Pa. Civ. No. 04-cv-00358-E)

Present: SCIRICA, Chief Judge, WEIS and GARTH, Circuit Judges

Submitted are:

(1) Appellant's notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); and

*(2) Appellant's request for appointment of counsel

in the above-captioned case.

Respectfully,

Clerk

ORDER

The foregoing request for a certificate of appealability is denied because Appellant has not made a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). In particular, Appellant has not shown that reasonable jurists would debate the District Court's dismissal of his habeas petition as untimely. Slack v. McDaniel, 529 U.S. 473, 484 (2000). In light of the disposition of Appellant's request for a certificate of appealability, the motion for appointment of counsel is denied.



By the Court,

s/WEIS

United States Circuit Judge

Dated: February 6, 2008
ISC/cc: Anthony Gilmore
Roger M. Bauer, Esq.

Marcia M. Waldron
Marcia M. Waldron, Clerk